

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

KELLY BURNS, TROY BURNS, and the  
community property comprised thereof,

Plaintiffs,

v.

CREDIT CONTROL, LLC, a Missouri  
Limited Liability Company.

Defendant.

Case No.

**NOTICE OF REMOVAL OF ACTION  
UNDER 28 U.S.C. § 1441(a)**

PLEASE TAKE NOTICE THAT defendant removes to this court the state court  
action described below.

1. This is a civil action over which the court has original jurisdiction under  
28 U.S.C. § 1331, and which may be removed to this court under 28 U.S.C. § 1441(a),  
because it involves claims under the Fair Debt Collection Practices Act, 15 U.S.C.  
§ 1692 *et seq.* ("FDCPA").

2. Plaintiff purported to serve a summons and complaint on defendant. No  
case number was included and, to defendant's knowledge, the complaint has not been  
filed. A copy of the summons and complaint are attached as Exhibit A.

///

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Page 1 - **NOTICE OF REMOVAL OF ACTION UNDER 28  
U.S.C. § 1441(a)**

Fed Notice of Removal - Burns Kelly

COSGRAVE VERGEER KESTER  
LLP  
Attorneys  
888 SW Fifth Avenue, Suite  
500  
Portland, OR 97204  
(503) 323-9000



**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the foregoing **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(a)** on the date indicated below by:

- ☒ mail with postage prepaid, deposited in the US mail at Portland, Oregon,  
☐ hand delivery,  
☐ facsimile transmission,  
☐ overnight delivery,  
☐ electronic filing notification

I further certify that said copy was placed in a sealed envelope delivered as indicated above and addressed to said attorneys at the address listed below:

Robert Mitchell  
Robert Mitchell, Attorney at Law, PLLC  
1020 N. Washington St.  
Spokane, Washington 99021

Attorney for Plaintiffs

DATED: November 21, 2018

**s/ Robert E. Sabido**  
Robert E. Sabido

STATE OF WASHINGTON  
SPOKANE COUNTY SUPERIOR COURT

KELLY BURNS, TROY BURNS, and the  
community property comprised thereof,

Plaintiff,

v.

CREDIT CONTROL, L.L.C., a Missouri  
~~Limited Liability Company,~~

Defendant.

NO.

SUMMONS

**CREDIT CONTROL, L.L.C, a Missouri Limited Liability Company:** A lawsuit has been started against you in the above-entitled Court by Plaintiff. Plaintiff's claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the person signing this Summons within twenty (20) days after the service of this Summons, excluding the day of service, or within sixty (60) days if this Summons is served outside the State of Washington, or within forty (40) days if this Summons is served through the Insurance Commissioner's Office, or a default judgment may be entered against you without notice. A default judgment is one where Plaintiff is entitled to what it asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the Plaintiff file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the person signing this Summons. Within

1 fourteen (14) days after you serve the demand, the Plaintiff must file this lawsuit with the Court,  
2 or the service on you of this Summons and Complaint will be void.

3 If you wish to seek the advice of an attorney in this matter, you should do so promptly so  
4 that your written response, if any, may be served on time.

5 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State  
6 of Washington.

7 DATED this 19<sup>th</sup> day of October, 2018.

8 PLAINTIFF'S COUNSEL

9  
10   
11 ~~ROBERT MITCHELL, WSBA No. 37444~~

12 Robert Mitchell Attorney at Law, PLLC

13 1020 N. Washington St.

14 Spokane, WA 99201

15 Telephone: (509) 327-2224

16 bobmitchellaw@yahoo.com  
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STATE OF WASHINGTON  
SPOKANE COUNTY SUPERIOR COURT

KELLY BURNS, TROY BURNS, and the  
community property comprised thereof,

Plaintiff,

v.

CREDIT CONTROL, L.L.C., a Missouri  
Limited Liability Company,

Defendant.

NO.

PLAINTIFFS' COMPLAINT FOR  
INJUNCTIVE RELIEF FOR  
VIOLATIONS OF THE CONSUMER  
PROTECTION ACT AND THE FAIR  
DEBT COLLECTION PRACTICES  
ACT, *INTER ALIA*

COME NOW, Plaintiffs, KELLY BURNS, TROY BURNS, and the marital community  
comprised thereof, by and through their counsel, ROBERT MITCHELL, and complain against  
the Defendant as follows:

I. STATEMENT OF THE CASE

Defendant, Credit Control, L.L.C. is using unfair and deceptive practices in attempt to  
deceive Washington consumers about the status of time barred debts. Defendant's collection  
letters do not contain a date of last payment or date of default. Defendant's letters fail to  
inform Washington consumers about the drastic consequences associated with paying time  
barred debt, like: reviving the statute of limitations and renewing an expired credit reporting  
period. Worse yet, the letters suggest consequences for nonpayment that simply do not exist.

PLAINTIFFS' COMPLAINT

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1 Most collectors have moved to the safer method of actually explaining in collection  
 2 correspondence that the debt is beyond the statute of limitations, and assuring consumers that  
 3 the collector will not file a debt collection lawsuit, even if voluntary payment is not received.  
 4 Defendant's collection letters do not explain this to consumers. Instead, Defendant has chosen  
 5 to push the envelope. To that end, one Federal Court stated: "...in the general context of  
 6 consumer protection - of which the Fair Debt Collection Practices Act is a part-it does not  
 7 seem 'unfair to require that one, who deliberately goes perilously close to an area of proscribed  
 8 conduct shall take the risk that he may cross the line." *Russell v. Equifax A.R.S.*, 74 F.3d 30  
 9 (2d Cir. 1996). Defendant crossed the line in this case.

11 Defendant's practices violate the Fair Debt Collection Practices Act at 15 U.S.C.  
 12 1692e. *See, McMahon v. LVNV Funding, L.L.C.*, 744 F.3d 1010 (7<sup>th</sup> Cir. Mar. 11, 2015);  
 13 *Buchanan v. Northland Group, Inc.*, 776 F.3d 393 (6<sup>th</sup> Cir. 2015); *Daugherty v. Convergent*  
 14 *Outsourcing, Inc.*, 836 F.3d 507 (5<sup>th</sup> Cir. 2016); and *Pantoja v. Portfolio Recovery Associates,*  
 15 *L.L.C.*, 852 F. 3d 679 (7<sup>th</sup> Cir. 2017), *inter alia*. Defendant's conduct also violates  
 16 Washington's Consumer Protection Act at RCW 19.86.090. *See, Panag v. Farmers Ins. Co.*,  
 17 166 Wn.2d 27, 204 P.3d 885 (2009). Plaintiffs were injured and damaged by Defendant's  
 18 unfair and deceptive conduct. Plaintiffs seek an injunction to stop Defendant from using  
 19 similar collection letters to harm other Washington Consumers.

## 22 **II. PARTIES**

23 2.1 Plaintiffs, KELLY and TROY BURNS are residents of Spokane County,  
 24 Washington.

25 PLAINTIFFS' COMPLAINT

26 2

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2.2 Plaintiffs obtained a credit card from Kohl's, which they used primarily for personal, family, and household purposes.

2.3 Defendant alleges that Plaintiffs defaulted on the consumer credit card "debt" by failing to make timely payments.

2.4 Plaintiffs are therefore "debtor[s]" as defined by the Fair Debt Collection Practices Act (FDCPA), and "person[s]" as defined by the Consumer Protection Act (CPA), and Plaintiffs acted as "debtor[s]" and "person[s]" at all times relevant to this litigation.

2.5 Defendant, CREDIT CONTROL, L.L.C. (hereinafter "Defendant"), is a Missouri Limited Liability Company, a "collection agency," a "debt collector" and a "person," which regularly collects stale accounts originally owed to others.

2.6 Defendant is licensed to engage in business in this state pursuant to UBI No. 602621572.

2.7 Defendant made attempts to collect the debt at the heart of this case from Plaintiffs.

2.8 Defendant has been sued 68 times in federal court alone.

### III. JURISDICTION AND VENUE

3.1 Jurisdiction and Venue in Spokane County Superior Court are appropriate where all acts at issue and described herein occurred in Spokane County, Washington, and where the injury to Plaintiff occurred in Spokane County, Washington, and where the Defendant has engaged in substantial business contacts in Spokane County, Washington, and where Defendant has already submitted to this jurisdiction by threatening to take action against

PLAINTIFFS' COMPLAINT

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1 Plaintiff in this jurisdiction, and where the Plaintiff prays for injunctive relief that exceeds the  
 2 jurisdiction of the State District Court. RCW 4.12.020; 4.12.025; 4.28.180; 4.28.185; and  
 3 7.40.010.

4 3.2 Defendant is liable unto Plaintiffs pursuant to the provisions of the Washington  
 5 Consumer Protection Act (CPA), RCW 19.86 et seq., and the Fair Debt Collection Practices  
 6 Act, 15 U.S.C. § 1692, et. seq., as well as other applicable state and federal laws.  
 7

#### 8 IV. FACTS

9 4.1 Plaintiffs obtained a Kohl's credit card, which they used primarily for personal,  
 10 family, and household purposes.

11 4.2 Plaintiff, Mr. Burns is disabled.

12 4.3 In approximately 2011, one of Plaintiffs' children became ill, which resulted in  
 13 substantial medical costs.

14 4.4 Plaintiffs stopped making payments on their Kohl's credit card on or about  
 15 2011.

16 4.5 At that time, the balance on the account was less than \$1,000.00.

17 4.6 Plaintiffs have not made a payment on their Kohl's card since.

18 4.7 On September 25, 2018, Defendant mailed Plaintiffs a collection letter  
 19 demanding payment of "\$1,363.74."

20 4.8 The letter does not explain the basis for the added balance.

21 4.9 Defendant's letter then states in pertinent part: "Subject to your rights as set  
 22 forth below, our client has authorized us to extend you affordable options to resolve this  
 23 account. Upon completion of one of the options below, this account will be considered  
 24 resolved."

25 PLAINTIFFS' COMPLAINT

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1       4.10   The only **"rights as set forth below"** are payment options.

2       4.11   One of the options is to make "12 consecutive monthly payment(s)" to pay the  
3 balance in full.

4       4.12   Defendant chose these letters, words, and phrases to convey the impression that  
5 the *only* **"rights"** Plaintiffs had was to pay the time barred debt.

6       4.13   Plaintiffs were in fact deceived into believing that they needed to pay the time  
7 barred debt, pursuant to the **"rights"** listed in Defendant's collection letter.

8       4.14   Defendant's collection letter further states in pertinent part: **"Take advantage  
9 of one of these options to move you closer to debt reduction and less financial worry!"**

10      4.15   Defendant chose the phrase **"worry!"** to instill fear in Plaintiffs that they had  
11 something to **"worry!"** about if they refused to pay the debt.

12      4.16   To pressure Plaintiffs into paying immediately, the very next sentence in the  
13 letter states: **"We are not obligated to renew this offer."**

14      4.17   However, time was not of the essence because the account was past the statute  
15 of limitations, and Plaintiffs had nothing to fear from nonpayment because Defendant could no  
16 longer sue or credit report to enforce the account.

17      4.18   Nowhere does Defendant's collection letter disclose the date of last payment on  
18 the account.

19      4.19   Nowhere does Defendant's collection letter disclose that the account is beyond  
20 the statute of limitations.

21      4.20   Nowhere does Defendant's collection letter warn Plaintiffs that making even a  
22 partial payment, which is one of the options listed as a **"right"** in Defendant's collection letter,  
23 would revive the statute of limitations for another six years.

24  
25 PLAINTIFFS' COMPLAINT

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1           4.21 Nowhere does Defendant's collection letter warn Plaintiffs that making even a  
2 partial payment, which is one of the options listed as a "right" in Defendant's collection letter,  
3 would revive the credit reporting period for another seven years.

4           4.22 Courts have recommended that debt collectors warn consumers of the  
5 consequences of paying time barred debts.

6           4.23 Many debt collectors have adopted this as a standard practice.

7           4.24 Defendant chose to press the envelope.

8           4.25 Plaintiffs were forced to pay to obtain a copy of their consumer credit report to  
9 verify that this debt is too old to collect through credit reporting and/or litigation.

10          4.26 Plaintiff suffered other economic and non-economic injuries and damages as a  
11 direct and proximate result of Defendant's unfair and deceptive collection letter.

12          4.27 Defendant's unfair and deceptive collection letter occurred in trade and  
13 commerce.

14          4.28 Defendant's unfair and deceptive practices have a public impact. *See, Panag v.*  
15 *Farmers Ins. Co.*, 166 Wn.2d 27, 204 P.3d 885 (2009).

16          4.29 Defendant's unfair and deceptive practices have the capacity for repetition.

17          4.30 Defendant's unfair and deceptive practices will injure other Washington  
18 consumers unless this Court issues appropriate injunctive relief.

19  
20           **V. FAIR DEBT COLLECTION PRACTICES ACT VIOLATION**

21                   **(Application of the Statute)**

22          5.1 Plaintiffs re-allege paragraphs I. through IV., inclusive as though fully set forth  
23 herein.

24  
25 PLAINTIFFS' COMPLAINT

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5.4 Pursuant to the FDCPA, the term “debt collector” means: “any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.” 15 U.S.C. § 1692a(6).

5.6 Therefore, the FDCPA applies in this case because the Plaintiff is a "debtor," the debt at the heart of this case is a "consumer debt," which arose from a transaction in which the services are primarily for personal, family, or household purposes, and the Defendant collection agency is a "debt collector" which attempted to collect a debt owed to a third party.

**(False, Deceptive, or Misleading Representations)**

EXHIBIT A Page 9 of 19

1           6.2     The Fair Debt Collection Practices Act (FDCPA) states in pertinent part: "A  
2 debt collector may not use any false, deceptive, or misleading representation or means in  
3 connection with the collection of any debt." 15 U.S.C. § 1692e.

4           6.3     The act further states that the following conduct is a violation of section 1692e:  
5 "The false representation of the character, amount, or legal status of a debt...." 15 U.S.C. §  
6 1692e(2).

7           6.4     The act further states that the following conduct is a violation of section 1692e:  
8 "The threat to take any action that cannot legally be taken or that is not intended to be taken."  
9 15 U.S.C. § 1692e(5).

10          6.5     The act further states that the following conduct is a violation of section 1692e:  
11 "The use of any false representation or deceptive means to collect or attempt to collect any  
12 debt or to obtain information concerning a consumer." 15 U.S.C. § 1692e(10).

13          6.6     In this case, Defendant mailed a collection letter to Plaintiffs in attempt to  
14 collect a time barred debt, with an unlawfully inflated balance. The letter did not disclose how  
15 the debt was increased. The letter did not disclose the date of last payment or that the debt was  
16 beyond the statute of limitations. The letter did not warn Plaintiffs against the drastic  
17 consequences of making a payment on a time barred debt, including reviving the statute of  
18 limitations and reviving the credit reporting period. Instead, Defendant's letter used words and  
19 phrases designed to convey the impression that Plaintiffs' legal rights were limited to payment  
20 of the time barred debt, and that failure to pay the account would result in "worry!" and other  
21 undisclosed consequences.

22          6.7     Defendant therefore violated the statute by falsely representing the character,  
23 amount and legal status of the subject debt.

24  
25 PLAINTIFFS' COMPLAINT

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1           6.8 Defendant therefore violated the statute by issuing veiled threats of actions  
2 Defendant could not take to collect this ancient account.

3           6.9 Defendant therefore violated the statute by the use of false representations and  
4 deceptive means to attempt to collect the subject debt.

5           6.10 Plaintiffs were injured by Defendant's actions.

6           6.11 Defendant's actions were a direct and proximate cause of Plaintiffs' injuries and  
7 damages.

8           6.12 Defendant's actions were intentional, willful, wanton, unfair, unconscionable,  
9 and outrageous.

10          6.13 Defendant's actions illustrate why an injunction is necessary to protect Plaintiffs  
11 and other Washington debtors from similar harm.

12                               **VII. SECOND CAUSE OF ACTION**

13                               **(Per Se Consumer Protection Act – State Collection Agency Act Violation)**

14          7.1 Plaintiffs re-allege paragraphs I. through VI., inclusive as though fully set forth  
15 herein.

16          7.2 Washington's Consumer Protection Act (hereinafter "CPA") states: "Unfair  
17 methods of competition and unfair or deceptive acts or practices in the conduct of any trade or  
18 commerce are hereby declared unlawful." RCW 19.86.020.

19          7.3 The Washington CPA applies to the actions at issue herein because the  
20 Plaintiffs are "person[s]" and the Defendant is a "person," the complaint involves conduct  
21 which occurred in the course of trade/commerce, the Plaintiffs were damaged in their property  
22 by Defendant's actions, and the complaint involves a matter of public interest which is capable  
23 of repetition and will likely affect other consumers in this state.

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25 PLAINTIFFS' COMPLAINT

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1           7.4     Additionally, the Washington Collection Agency Act (hereinafter "WCAA")  
 2 prohibits collection agencies from engaging in certain unfair and/or deceptive collection acts or  
 3 practices. RCW 19.16.250(1 – 25).

4           7.5     Violations of the WCAA are *per se* violations of the Consumer Protection Act  
 5 (WCPA). RCW 19.16.440.

6           7.6     The "Prohibited Practices" section of the WCAA states in pertinent part that  
 7 "No licensee or employee of a licensee shall:

8  
 9           Give or send to any debtor or cause to be given or sent to any  
 10 debtor, any notice, letter, message, or form, other than through  
 11 proper legal action, process, or proceedings, which represents or  
 12 implies that a claim exists unless it shall indicate in clear and  
 13 legible type: (a) The name of the licensee and the city, street, and  
 14 number at which he or she is licensed to do business; (b) The name  
 15 of the original creditor to whom the debtor owed the claim if such  
 16 name is known to the licensee or employee: PROVIDED, That  
 17 upon written request of the debtor, the licensee shall provide this  
 18 name to the debtor or cease efforts to collect on the debt until this  
 19 information is provided; (c) If the notice, letter, message, or form  
 20 is the first notice to the debtor or if the licensee is attempting to  
 21 collect a different amount than indicated in his or her or its first  
 22 notice to the debtor, an itemization of the claim asserted must be  
 23 made including: (i) Amount owing on the original obligation at  
 24 the time it was received by the licensee for collection or by  
 25 assignment; (ii) Interest or service charge, collection costs, or late  
 26 payment charges, if any, added to the original obligation by the  
 original creditor, customer or assignor before it was received by  
 the licensee for collection, if such information is known by the  
 licensee or employee: PROVIDED, That upon written request of  
 the debtor, the licensee shall make a reasonable effort to obtain  
 information on such items and provide this information to the  
 debtor; (iii) Interest or service charge, if any, added by the licensee  
 or customer or assignor after the obligation was received by the  
 licensee for collection; (iv) Collection costs, if any, that the  
 licensee is attempting to collect; (v) Attorneys' fees, if any, that the  
 licensee is attempting to collect on his or her or its behalf or on the  
 behalf of a customer or assignor; and (vi) Any other charge or fee

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1 that the licensee is attempting to collect on his or her or its own  
 2 behalf or on the behalf of a customer or assignor; (d) If the notice,  
 3 letter, message, or form concerns a judgment obtained against the  
 4 debtor, no itemization of the amounts contained in the judgment is  
 5 required, except postjudgment interest, if claimed, and the current  
 6 account balance; (e) If the notice, letter, message, or form is the  
 7 first notice to the debtor, an itemization of the claim asserted must  
 8 be made including the following information: (i) The original  
 9 account number or redacted original account number assigned to  
 10 the debt, if known to the licensee or employee: PROVIDED, That  
 11 upon written request of the debtor, the licensee must make a  
 reasonable effort to obtain this information or cease efforts to  
 collect on the debt until this information is provided.<sup>1</sup>

12 7.7 The "Prohibited Practices" section of the WCAA further states in pertinent part  
 13 that "No licensee or employee of a licensee shall: Communicate in writing with a debtor  
 14 concerning a claim through a proper legal action, process, or proceeding, where such  
 15 communication is the first written communication with the debtor, without providing the  
 16 information set forth in subsection (8)(c) of this section in the written communication." RCW  
 17 19.16.250(9).

18 7.8 The "Prohibited Practices" section of the WCAA further states in pertinent part  
 19 that "No licensee or employee of a licensee shall: Communicate with a debtor or anyone else in  
 20 such a manner as to harass, intimidate, threaten, or embarrass a debtor..."

21 7.9 The "Prohibited Practices" section of the WCAA further states in pertinent part  
 22 that "No licensee or employee of a licensee shall: Communicate with a debtor or anyone else in  
 23 such a manner as to harass, intimidate, threaten, or embarrass a debtor..." RCW 19.16.250(13).

24  
 25 <sup>1</sup> RCW 19.16.250(8)(a - d).  
 26 PLAINTIFFS' COMPLAINT



1        7.10 The "Prohibited Practices" section of the WCAA further states in pertinent part  
 2 that "No licensee or employee of a licensee shall: Communicate with the debtor and represent  
 3 or imply that the existing obligation of the debtor may be or has been increased by the addition  
 4 of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such  
 5 fees or charges may not legally be added to the existing obligation of such debtor." RCW  
 6 19.16.250(15).

7        7.11 The "Prohibited Practices" section of the WCAA further states in pertinent part  
 8 that "No licensee or employee of a licensee shall: Threaten to take any action against the  
 9 debtor which the licensee cannot legally take at the time the threat is made." RCW  
 10 19.16.250(16).

11        7.12 Finally, the "Prohibited Practices" section of the WCAA states in pertinent part  
 12 that "No licensee or employee of a licensee shall: Collect or attempt to collect in addition to  
 13 the principal amount of a claim any sum other than allowable interest, collection costs or  
 14 handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and  
 15 taxable court costs." RCW 19.16.250(21).

16        7.13 In this case, Defendant violated both the Washington Collection Agency Act  
 17 and the Washington Consumer Protection Act (*per se* violation), by mailing a collection letter  
 18 to Plaintiffs in attempt to collect a time barred debt, with an unlawfully inflated balance, and  
 19 without stating the date of the last payment. The letter did not disclose how the debt was  
 20 increased. The letter did not disclose the date of last payment or that the debt was beyond the  
 21 statute of limitations. The letter did not warn Plaintiffs against the drastic consequences of  
 22 making a payment on a time barred debt, including reviving the statute of limitations and  
 23 reviving the credit reporting period. Instead, Defendant's letter used words and phrases  
 24 designed to convey the impression that Plaintiffs' legal rights were limited to payment of the  
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1 time barred debt, and that failure to pay the account would result in "worry!" and other  
2 undisclosed consequences.

3 7.14 Defendant's statutory violations are *per se* Consumer Protection Act violations.

4 7.15 Plaintiffs were injured and damaged by Defendant's unfair and deceptive  
5 actions.

6 7.16 Defendant's actions are a direct and proximate cause of Plaintiffs' injuries and  
7 damages.

8 7.17 Defendant's actions were intentional, willful, wanton, unfair, unconscionable,  
9 and outrageous.

10 7.18 Defendant's actions illustrate why an injunction is necessary to protect Plaintiffs  
11 and other Washington debtors from similar harm.

## 12 **VIII. THIRD CAUSE OF ACTION**

### 13 **(Consumer Protection Act Violation – In the Alternative)**

14 8.1 Plaintiffs re-allege paragraphs I. through VII., inclusive as though fully set forth  
15 herein.

16 8.2 In the alternative to a *per se* violation of Washington's CPA as alleged *Supra*,  
17 Defendant's collection actions are still "unfair" and "deceptive" as those terms are  
18 ambiguously defined and liberally construed to protect consumers. RCW 19.86.920.

19 8.3 In this case, Defendant violated the Washington Consumer Protection Act, by  
20 mailing a collection letter to Plaintiffs in attempt to collect a time barred debt, with an  
21 unlawfully inflated balance, and without stating the date of the last payment. The letter did not  
22 disclose how the debt was increased. The letter did not disclose the date of last payment or  
23 that the debt was beyond the statute of limitations. The letter did not warn Plaintiffs against  
24 the drastic consequences of making a payment on a time barred debt, including reviving the

25 PLAINTIFFS' COMPLAINT

26 13

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1 statute of limitations and reviving the credit reporting period. Instead, Defendant's letter used  
 2 words and phrases designed to convey the impression that Plaintiffs' legal rights were limited  
 3 to payment of the time barred debt, and that failure to pay the account would result in "worry!"  
 4 and other undisclosed consequences.

5 8.4 Defendant's collection attempts are unfair and deceptive acts or practices in  
 6 violation of Washington's Consumer Protection Act.

7 8.5 Defendant committed these unfair and deceptive acts or practices in the conduct  
 8 of trade or commerce.

9 8.6 Defendant's actions involve a public interest, debt collection. *See, Panag,*  
 10 *Supra.*

11 8.7 Defendant's actions have the capacity for repetition.

12 8.8 Plaintiffs were injured and suffered actual economic injury and damages as a  
 13 direct and proximate result of Defendant's unfair and deceptive actions.

14 8.9 Defendant's actions were intentional, willful, wanton, unfair, unconscionable,  
 15 and outrageous.

16 8.10 Defendant's actions illustrate why an injunction is necessary to protect Plaintiffs  
 17 and other Washington debtors from similar harm.

#### 18 **IX. PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs pray for judgment to be entered against the Defendant as  
 20 follows:

21 A. For an Injunction preventing Defendant from ever again contacting Plaintiffs for  
 22 any reason whatsoever, pursuant to RCW 19.86.090, and *Scott v. Cingular Wireless*, 160  
 23 Wn.2d 843, 161 P.3d 1000 (2007); *Hockley v. Hargitt*, 82 Wash.2d 337, 349-50, 510 P.2d  
 24 1123 (1973); *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778,  
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26 PLAINTIFFS' COMPLAINT

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1 783-84, 719 P.2d 531 (1986); *Lightfoot v. MacDonald*, 86 Wash.2d 331, 335-36, 544 P.2d 88  
2 (1976);

3 B. For an Injunction preventing Defendant from ever sending the offending  
4 collection letter to any other Washington consumer, pursuant to RCW 19.86.090, and *Scott v.*  
5 *Cingular Wireless*, 160 Wn.2d 843, 161 P.3d 1000 (2007); *Hockley v. Hargitt*, 82 Wash.2d  
6 337, 349-50, 510 P.2d 1123 (1973); *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins.*  
7 *Co.*, 105 Wash.2d 778, 783-84, 719 P.2d 531 (1986); *Lightfoot v. MacDonald*, 86 Wash.2d  
8 331, 335-36, 544 P.2d 88 (1976);

9 C. For an Injunction preventing Defendant from ever attempting to collect a time  
10 barred debt from a Washington consumer without first informing the consumer that Defendant  
11 cannot sue to enforce the debt, pursuant to RCW 19.86.090, and *Scott v. Cingular Wireless*,  
12 160 Wn.2d 843, 161 P.3d 1000 (2007); *Hockley v. Hargitt*, 82 Wash.2d 337, 349-50, 510 P.2d  
13 1123 (1973); *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778,  
14 783-84, 719 P.2d 531 (1986); *Lightfoot v. MacDonald*, 86 Wash.2d 331, 335-36, 544 P.2d 88  
15 (1976);

16 D. For an Injunction preventing Defendant from ever attempting to collect a time  
17 barred debt from a Washington consumer without first informing the consumer about the legal  
18 consequences associated with making a payment on a time barred debt, pursuant to RCW  
19 19.86.090, and *Scott v. Cingular Wireless*, 160 Wn.2d 843, 161 P.3d 1000 (2007); *Hockley v.*  
20 *Hargitt*, 82 Wash.2d 337, 349-50, 510 P.2d 1123 (1973); *Hangman Ridge Training Stables,*  
21 *Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778, 783-84, 719 P.2d 531 (1986); *Lightfoot v.*  
22 *MacDonald*, 86 Wash.2d 331, 335-36, 544 P.2d 88 (1976);

23 E. For an Injunction preventing Defendant from ever mailing a collection letter to  
24 a Washington consumer in attempt to collect a time barred debt without disclosing the date of  
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1 last payment in the collection letter, pursuant to RCW 19.86.090, and *Scott v. Cingular*  
 2 *Wireless*, 160 Wn.2d 843, 161 P.3d 1000 (2007); *Hockley v. Hargitt*, 82 Wash.2d 337, 349-50,  
 3 510 P.2d 1123 (1973); *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105  
 4 Wash.2d 778, 783-84, 719 P.2d 531 (1986); *Lightfoot v. MacDonald*, 86 Wash.2d 331, 335-36,  
 5 544 P.2d 88 (1976);

6 F. For an Injunction preventing Defendant from ever again collecting upon the  
 7 subject debt, pursuant to RCW 19.86.090, and *Scott v. Cingular Wireless*, 160 Wn.2d 843, 161  
 8 P.3d 1000 (2007); *Hockley v. Hargitt*, 82 Wash.2d 337, 349-50, 510 P.2d 1123 (1973);  
 9 *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778, 783-84, 719  
 10 P.2d 531 (1986); *Lightfoot v. MacDonald*, 86 Wash.2d 331, 335-36, 544 P.2d 88 (1976);

11 G. For an Injunction preventing the licensee, the customer of the licensee, or any  
 12 other person who may hereafter legally seek to collect on this claim, from ever being allowed  
 13 to recover any interest, service charge, attorneys' fees, collection costs, delinquency charge, or  
 14 any other fees or charges otherwise legally chargeable to the debtor on such claim, pursuant to  
 15 RCW 19.86.090, and *Scott v. Cingular Wireless*, 160 Wn.2d 843, 161 P.3d 1000 (2007);  
 16 *Hockley v. Hargitt*, 82 Wash.2d 337, 349-50, 510 P.2d 1123 (1973); *Hangman Ridge Training*  
 17 *Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778, 783-84, 719 P.2d 531 (1986); *Lightfoot*  
 18 *v. MacDonald*, 86 Wash.2d 331, 335-36, 544 P.2d 88 (1976);

19 H. For Actual and Compensatory damages in an amount to be proven at trial,  
 20 pursuant to RCW 19.86 et seq., 15 U.S.C. § 1692 et seq., and various common law claims;

21 I. For Intentional Infliction of Emotional Distress, or Negligent Infliction of  
 22 Emotional Distress damages in the amount of \$25,000.00, per Plaintiff, pursuant to 15 U.S.C. §  
 23 1692 et seq.; and *Jackson v. Peoples Credit Union*, 604 P.2d 1025 (1979); and *Baker v. G.C.*  
 24 *Servs. Corp.*, 677 F.2d 775 (9th Cir. 1982);

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1 J. For Statutory damages in the amount of \$1,000.00, per Plaintiff, pursuant to 15  
2 U.S.C. § 1692, et seq.;

3 K. For Incidental and Consequential damages in an amount to be proven at trial;

4 L. For treble any "actual" damages up to the amount of \$25,000.00, per Plaintiff,  
5 pursuant to RCW 19.86, et seq.;

6 M. For costs and reasonable attorney's fees in an amount to be proven at trial,  
7 pursuant to 15 U.S.C. § 1692 et seq. and RCW 19.86, et seq.;

8 N. For interest on the above amounts as authorized by law;

9 O. For other relief as the Court deems just and equitable; and

10 P. For leave to amend this complaint as needed and as required, including CR 23  
11 status if discovery proves numerosity and commonality of claims.

12 **X. REQUEST FOR TRIAL BY JURY**

13 Plaintiffs hereby request a trial by jury.

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15 DATED this 19<sup>th</sup> day of October, 2018.

16  
17 Respectfully submitted,

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21 ROBERT MITCHELL, WSBA #37444  
22 Attorney for Plaintiffs

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25 PLAINTIFFS' COMPLAINT

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